

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #11	CCRB Case #: 201900085	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 12/26/2018 10:27 PM	Location of Incident: [REDACTED]	Precinct: 100	18 Mo. SOL 6/26/2020	EO SOL 2/10/2021	
Date/Time CV Reported Thu, 12/27/2018 1:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/03/2019 11:06 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Luigi Fattizzo	16929	957573	100 PCT
2. POF Christine Thomson	03176	939580	100 PCT
3. POM Anthony Boccio	01095	961649	100 PCT
4. POM Casey Shamloo	04150	961280	100 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Estefany Garcia	00000	946949	100 PCT
2. POF Danielle Campo	07019	947638	100 PCT
3. POM Ryan Brady	25411	950102	100 PCT
4. POM Anton Totino	16400	951349	100 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Boccio	Abuse: Police Officer Anthony Boccio entered § 87(2)(b) in Queens.	[REDACTED]
B.POF Christine Thomson	Abuse: Police Officer Christine Thomson entered § 87(2)(b) in Queens.	[REDACTED]
C.POM Anthony Boccio	Force: Police Officer Anthony Boccio used physical force against § 87(2)(b)	[REDACTED]
D. Officers	Force: Officers used physical force against § 87(2)(b)	[REDACTED]
E.POM Anthony Boccio	Force: Police Officer Anthony Boccio used physical force against § 87(2)(b)	[REDACTED]
F.POM Luigi Fattizzo	Force: Police Officer Luigi Fattizzo used physical force against § 87(2)(b)	[REDACTED]
G.POM Casey Shamloo	Force: Police Officer Casey Shamloo used physical force against § 87(2)(b)	[REDACTED]
H. Officers	Force: Officers used physical force against § 87(2)(b)	[REDACTED]

## Case Summary

On December 27, 2018, Sergeant Charles Grimm of the 100<sup>th</sup> Precinct reported this complaint on behalf of injured prisoner § 87(2)(b) and IAB Log number 2018-50605 was generated. On January 3, 2019, the CCRB received this complaint under IAB Log number 2019-00072. On January 7, 2019, this case was assigned to the undersigned investigator, and on January 11, 2019, under the direction of § 87(2)(b)'s criminal attorney § 87(2)(b) this case was submitted for closure. On April 15, 2019, this case was closed—pending litigation. On May 31, 2019, this case was reopened upon § 87(2)(b)'s request, as his criminal case concluded.

On December 26, 2018, at approximately 9:00 p.m., § 87(2)(b) was arguing with his wife, § 87(2)(b) in their home, located at § 87(2)(b) in Queens. During this argument, one of his children called 911 to report that their father was choking their mother. PO Casey Shamloo, PO Luigi Fattizzo, PO Christine Thomson, and PO Anthony Boccio, all of the 100<sup>th</sup> Precinct, went to § 87(2)(b).

While PO Shamloo was interviewing § 87(2)(b) PO Thomson, and PO Boccio tried interviewing § 87(2)(b) (**Allegations A and B-Abuse of Authority-** § 87(2)(g) PO Boccio took § 87(2)(b) to the ground (**Allegation C- Force- Exonerated**). Unidentified officers allegedly struck him with fists and knees and put a knee on his head (**Allegation D- Force-** § 87(2)(g)). As PO Boccio, PO Fattizzo, and PO Shamloo were carrying him out to the police vehicle, they allegedly held him by the handcuffs and threw him into the vehicle (**Allegations E, F, and G- Force-** § 87(2)(g) Unidentified officers allegedly pushed him while he was in the car and yanked him by the handcuffs into the rear of the patrol vehicle (**Allegation H- Force-** § 87(2)(g)).

§ 87(2)(b) was arrested for four counts of criminal contempt in the first degree, one count of strangulation in the first degree, criminal obstruction of breathing, resisting arrest, acting in a manner injurious to a child less than 17 years old, harassment in the second degree, criminal mischief in the third degree, criminal obstruction of breathing, resisting arrest, and obstructing governmental administration in the second degree (Board Review 01).

There was no video footage available for this incident.

**Allegation (A) Abuse of Authority: Police Officer Anthony Boccio entered § 87(2)(b) in Queens.**

**Allegation (B) Abuse of Authority: Police Officer Christine Thomson entered § 87(2)(b) in Queens.**

It is undisputed that PO Fattizzo, PO Boccio, and PO Thomson entered § 87(2)(b) and that § 87(2)(b) objected to their being there.

§ 87(2)(b) was interviewed by the CCRB twice by videoconference, as he was serving a § 87(2)(b) for violating an order of protection in connection to this case. He testified that this incident began with an argument between him and § 87(2)(b) who was trying to prevent him from leaving the residence. § 87(2)(b) initially testified that this was a verbal argument, but upon further questioning about the details of the dispute, he clarified that it was a physical struggle, in which he did not choke § 87(2)(b) or any of the children.

When he tried to leave, he saw police in his doorway. He was not aware of who called them. Approximately six male officers entered the residence once he opened the door. He did not want them there. § 87(2)(b) testified to consuming three alcoholic drinks in the three hours before the incident, but denied that he was intoxicated.

The investigation could not reach § 87(2)(b) for a statement, despite multiple emails, calls and letters (Board Review 02).

The 911 call in this case was placed by several of § 87(2)(b)'s unidentified children. They say over the phone that their father is choking their mother, but cannot provide their address, and do not say if anyone in the residence has been injured (Board Reviews 3 and 4). In the radio runs associated with Event § 87(2)(b) the dispatcher indicates that a child caller stated that his father was choking his mother, and that there was no information regarding whether any party was injured (Board Reviews 4 and 5). In the Event the dispatcher indicated that a child caller told them that his father was trying to kill his mother (Board Review 21).

All the officers testified that they received a call for an assault in progress with no viable address, and they obtained the address running the address through the DAS (Domain Awareness System) computer system. When they did, the system associated this cellphone number with this address, and indicated that the occupants had prior calls for domestic violence incidents. None of the officers independently recalled a child caller.

PO Shamloo, PO Thomson, and PO Boccio testified that when they reached the front door of the residence, § 87(2)(b) was outside, and she was visibly upset. PO Shamloo and PO Thomson testified that she told them that § 87(2)(b) choked her, and that he was inside of the residence. PO Boccio stated that he spent very little time with her, but that he went inside to ensure the safety of § 87(2)(b) and any children inside.

PO Fattizzo testified that the officers opened the door of § 87(2)(b), and a female individual was present. She was crying at the time and accused § 87(2)(b) of choking her.

All the officers testified that PO Shamloo interviewed § 87(2)(b) while PO Thomson and PO Boccio tried to make contact with § 87(2)(b) in the living room of the residence.

Under People v. Doll, 21 N.Y.3d 665 (2013) the emergency doctrine for police comes into effect when there are reasonable grounds that there is an emergency at hand and their immediate assistance is needed for the protection of life (Board Review 6).

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

#### **Allegation (C) Police Officer Anthony Boccio used physical force against § 87(2)(b)**

It is undisputed that once PO Fattizzo, PO Boccio, and PO Thomson were inside of the apartment, § 87(2)(b) was displeased with their being there, and eventually, he ended up on the ground.

§ 87(2)(b) said that he tried to walk past the officers, but two of them, white male officers blocked his path. One of these officers told him to sit down. One of the officers, pushed him over a fabric beach chair, and he fell, tipping over his Christmas tree. He fell to the ground, and then got to one knee, and officers brought him back to the ground by pulling his knee. § 87(2)(b) stated that once he got to the ground, he physically resisted the officers by turning his

head and telling them to stop what they were doing and covering his face with his left hand. § 87(2)(b) did not remember having any contact with a female officer inside of his residence, and he denied lunging at any officer at any point.

§ 87(2)(b) who is 5'4" tall and who weighs 160 pounds, testified to having three alcoholic drinks in the three hours preceding this incident. He denied that he was intoxicated, but he testified that the alcohol, anger, and adrenaline involved in this incident lowered his pain tolerance and caused him to feel less of the injuries that he ultimately sustained, bruising to his ribs. § 87(2)(b) also reported that he struggled physically with his wife, § 87(2)(b) prior to the officers' arrival, but said that he was not injured before the officers arrived.

PO Boccio, who is § 87(2)(b) who weighs § 87(2)(b) confirmed § 87(2)(b) was walking around the house, and that he blocked his path. He said that § 87(2)(b) lunged at PO Thomson, getting within a foot or two of her face, and that PO Boccio pushed him back. He denied pushing him into a Christmas tree. PO Boccio then tried to grab § 87(2)(b)'s arm, and wrestled with him, but could not remember further how he was wrestling with him. He took § 87(2)(b) to the ground but did not know how § 87(2)(b) landed on the ground. PO Boccio did not remember taking § 87(2)(b) to the ground a second time by pulling on his knee, but remembered that once § 87(2)(b) got to the ground, § 87(2)(b) was kicking and punching at the officers.

PO Thomson stated that the officers, once they came into the apartment, told § 87(2)(b) that he was under arrest. § 87(2)(b) was upset at the officers, and said to them, "Fuck you" and about § 87(2)(b) "Fuck her." The officers told § 87(2)(b) told him to calm down, and put his hands behind his back, which he did not do. § 87(2)(b) lunged at PO Thomson, getting within six inches of her face. PO Boccio and PO Fattizzo each grabbed one of § 87(2)(b)'s arms. § 87(2)(b) fought them and fell to the ground. PO Thomson did not believe that any officer took § 87(2)(b) to the ground intentionally. She believed that he could have been intoxicated by how angry he seemed, but she did not have any other reason to believe that he was.

PO Fattizzo said that at the time § 87(2)(b) was first speaking with officers, he was with PO Shamloo, and he heard yelling inside of the apartment. When he went into the house, he saw PO Thomson and PO Boccio trying to place handcuffs on § 87(2)(b). He did not remember where on his body they were making contact, but he remembered them forcibly taking § 87(2)(b) to the ground.

PO Shamloo said that he was interviewing § 87(2)(b) outside of the residence, when he heard yelling. He left to go inside, and saw § 87(2)(b) already on the floor.

On January 14, 2019, PO Shamloo testified in § 87(2)(b)'s Parole Revocation Hearing that § 87(2)(b) resisted arrest, but did not make any mention of him being taken to the ground (Board Review 22 and 23).

PO Boccio's, PO Thomson's, and PO Fattizzo's TRI reports § 87(2)(b) and § 87(2)(b) all indicate that a forcible takedown was used on § 87(2)(b) (Board Reviews 7, 8, and 9).

The ISAR report connected to TRIs § 87(2)(b) (TRI reports which were later canceled and replaced with TRIs § 87(2)(b) 6) prepared by Captain John Ganley, indicated that he informally interviewed PO Boccio, PO Fattizzo, and PO Thomson. From all of their statements, which he deemed to be consistent, he wrote that PO Boccio gave verbal commands to § 87(2)(b) to comply with officers, when § 87(2)(b) lunged at PO Thomson, and PO Boccio pushed him away, and took him to the ground to get him under control. PO Fattizzo then went into the residence to see what was happening (Board Review 10).

§ 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 221-03 lists a forcible takedown as the Level 1 force, the lowest level of reportable force (Board Review 11). Patrol Guide Procedure 221-01 lists such factors as the severity of the crime, the actions taken by the subject, the duration of the action, the immediacy of perceived threat to all involved, whether the subject is evading custody, the number of subjects in comparison to officers, the size and condition of the subject compared to the officers, any known violent history, the presence of a hostile crowd, or the presence of a stimulant or narcotic (Board Review 12).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (D) Force: Officers used physical force against § 87(2)(b)**

What force was used against § 87(2)(b) after he was taken to the ground, and who used that force is in dispute.

§ 87(2)(b) testified that after he was placed on the ground, the officers placed one handcuff on his right wrist, and he used his left hand to cover his face. An officer had a knee on his head, and another officer had a knee on his back. He felt officers either throwing their knees into his sides or punching his sides. He characterized his resistance initially as turning his head to tell the officers to stop. At the time, he heard his § 87(2)(b)-year-old daughter § 87(2)(b) § 87(2)(b) telling the officers to stop hurting him, which made him angrier, and he tried to turn around and fight the officers, but then calmed down. He did not believe that he swung at any officer. He did not attribute these actions to any specific officers. He did not see the officers when they did this, and could not describe them.

§ 87(2)(b) testified that he had bruised ribs on his left side, and a bruised knee. He believed that these were caused by the officers' alleged body blows. His thumb was also fractured, though he did not know when this occurred, since the alcohol, adrenaline, and anger raised his pain tolerance.

All the officers interviewed denied using any body blows, either with knees or feet.

§ 87(2)(b)'s medical records from § 87(2)(b) Hospital—§ 87(2)(b) note that he reported pain to his ribs and right knee, but X-rays did not indicate fractures in those areas (Board Review 13, Board Review 19).

PO Boccio's, PO Thomson's, and PO Fattizzo's TRI reports do not note that these officers struck § 87(2)(b) nor does the ISAR report.

§ 87(2)(b), § 87(2)(g)

**Allegation (E) Police Officer Anthony Boccio used physical force against § 87(2)(b)**

**Allegation (F) Police Officer Luigi Fattizzo used physical force against § 87(2)(b)**

**Allegation (G) Police Officer Casey Shamloo used physical force against § 87(2)(b)**

It is undisputed that PO Boccio and PO Fattizzo carried § 87(2)(b) from § 87(2)(b) to a police vehicle, while he was handcuffed. § 87(2)(g)

§ 87(2)(b) testified in his initial interview that he was not given the chance to walk out of the residence on his own power, and that one officer carried each of his feet, and another held his handcuffs by the chain. During his second interview, he said that one officer carried his feet, and one officer on each side held his handcuffs and shoulders. He was facedown at the time. He testified that the officers taking him to the police vehicle were male. He said that they threw him into the vehicle, and that his feet did not touch the ground between his residence and the vehicle.

PO Boccio stated that § 87(2)(b) was given the chance to walk on his own power, but that he physically pushed against the officers when they tried to carry him. He was carrying § 87(2)(b) under his arms and denied that he was carried by the chain of his handcuffs. He could not remember how § 87(2)(b) was positioned when he was being carried, and he did not remember which officer carried his feet.

PO Fattizzo also remembered carrying § 87(2)(b) under his arms to the vehicle, because when § 87(2)(b) was handcuffed, he pushed against the officers instead of walking to the police vehicle. He did not remember any officer carrying § 87(2)(b) by the chain of his handcuffs, nor which officer carried his feet.

PO Shamloo testified that he tried lifting § 87(2)(b) by the middle of one of his arms when § 87(2)(b) was trying to sit on the ground as officers tried taking him out to the police vehicle. He did not remember which officer was holding his other arm, and he did not remember any officer holding his legs at all.

PO Thomson denied that § 87(2)(b) was carried facedown, or that any officer supported him by his feet. She remembered that officers were supporting him under his arms as he flailed and kicked his feet.

All officers denied that § 87(2)(b) was carried facedown by his handcuffs or thrown into the police vehicle.

Neither the TRI reports nor the ISAR mentions these actions being taken (Board Reviews 7, 8, 9, and 10).

As mentioned above, § 87(2)(b) sustained a fractured thumb, and had documented pain to his ribs and one of his knees, but he did not know how he was injured.

§ 87(2)(b), § 87(2)(g)

**Allegation (H) Officers used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) moved his feet towards the doors of the vehicle after officers put him in the police vehicle. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) testified that he put his foot in the doorjamb of the vehicle to prevent the officers from closing the door, because he believed that he should not have been arrested. After he did so, an officer he could not remember or describe pushed him and an officer he could not identify or describe yanked on the chain of his handcuffs to get him further into the vehicle.

All the officers interviewed denied that any officer yanked on the chain of § 87(2)(b)'s handcuffs, and none of them testified to pushing him in the vehicle.

As mentioned above, § 87(2)(b) could not account for which actions in the incident caused which of his injuries.

§ 87(2)(b), § 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the second CCRB complaint involving § 87(2)(b) (Board Review 14).
  - § 87(2)(b)
- PO Fattizzo has been a member of service for five years. This is the first CCRB complaint filed against him.
- PO Thomson has been a member of service for 14 years. Two CCRB complaints, with two allegations, have been filed against her. None has been substantiated.
  - § 87(2)(g)
- PO Shamloo has been a member of service for 4 years. Three complaints and five allegations have been filed against him. None has been substantiated. Case 201909580 is still pending investigation.
  - § 87(2)(g)
- PO Boccio has been a member of service for three years. One complaint and one allegation has been filed against him and has not been substantiated.
  - § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation due to the arrest.
- On June 6, 2019, the CCRB received a notice of claim for § 87(2)(b) for this incident, he alleged misconduct against the New York City Department of Correction for the way he was housed following this arrest, but did not include specific amounts claimed in his Notice of Claim (Board Review 15, Board Review 20). On November 15, 2019, the Office of the New York City Office of the Comptroller denied that any 50-H hearing was

held for § 87(2)(b) (Board Review 16). On February 19, 2020, a follow-up request if a 50-H hearing was made was made to the New York City Office of the New York City Comptroller (Board Review 17). The results will be added to the case file upon receipt.

- According to the Office of Court Administration, between August 10, 1995 and February 13, 2020, § 87(2)(b) was convicted of criminal contempt (five times), theft of services (four times), disorderly conduct (twice), criminal possession of a weapon (once), petit larceny (once), sale of a controlled substance (once), attempted sale of a controlled substance (once), criminal obstruction of breathing (once), aggravated family offense (once), attempted criminal contempt (once), and attempted assault (once), § 87(2)(b) (Board Review 18).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date